

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DIECE-LISA INDUSTRIES, INC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 2:12-cv-00400-RWS-RSP
	§	
DISNEY STORE USA, LLC ET AL.,	§	
	§	
Defendants.	§	

ORDER

Before the Court are Defendants Disney Enterprises and Disney Consumer Products’ (collectively, “Disney”) Objections (Doc. No. 167) to the Magistrate Judge’s Report and Recommendation (Doc. No. 159). Disney objects to the Magistrate Judge’s Report and Recommendation only to the extent that it recommended denying Defendants’ Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue (civil action number 2:14-cv-70, Doc. No. 21).

Defendants object to the Report and Recommendation and assert they have shown (1) Plaintiff did not make a prima facie showing that DEI was subject to personal jurisdiction in Texas; (2) Plaintiff did not make a prima facie showing that DCP is subject to personal jurisdiction in Texas; and (3) venue is not proper in the Eastern District of Texas “[b]ecause neither DCI nor DCP is subject to personal jurisdiction in Texas.” (Doc. No. 167, at 7.)

These assertions boil down to one premise: that under Federal Circuit precedent, a non-exclusive “licens[e] [to] third parties to make and sell *Toy Story 3* merchandise throughout the country does not support specific jurisdiction in Texas.” (Doc. No. 167, at 5, 6 (citing

Avocent Huntsville Corp. v. Aten Int'l Co., 552 F.3d 1324, 1336 (Fed. Cir. 2008); *Red Wing Shoe Co., Inc. v. Hockerson-Halberstadt, Inc.*, 148 F.3d 1355, 1361–62 (Fed. Cir. 1998)).)

After reviewing the objected to portions of the Report and Recommendation de novo, the Court finds that the Report and Recommendation should be **ADOPTED**. The Court **OVERRULES** Defendants' arguments: first, because the undisputed facts do not show that specific personal jurisdiction is improper; and second, Defendants have not cited controlling authority which holds that licensor is per se not subject to specific personal jurisdiction in Texas based off the actions of a non-exclusive licensee. Accordingly, Defendants' Rule 12(b)(1) Motion to Dismiss Based on Lack of Jurisdiction (Doc. No. 21) is hereby **DENIED**.

Furthermore, the Report and Recommendation also recommended denying Plaintiff's Motions for Summary Judgment on Knowledge and Protectability (Doc. Nos. 60 and 62) and Defendants' No Evidence Motion for Summary Judgment (Doc. No. 66). There were no objections to the Magistrate Judge's recommendations with respect to those motions. Accordingly, Plaintiff's Motions for Summary Judgment (Doc. Nos. 60 and, 62) and Defendants' Motions for Summary Judgment (Doc. No. 66) are **DENIED**.

SIGNED this 29th day of September, 2015.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE